

***Remarks***

Reconsideration of this Application is respectfully requested.

Claims 66-81 are pending in the application, with claim 66 being the sole independent claim.

***The Rejection under 35 U.S.C. § 102(b) Should Be Withdrawn***

Claims 66-68 and 71 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Hoover *et al.* US 4,979,639. *See* Office Action, page 2.

Applicants respectfully disagree and traverse this rejection. Claims 66-68 and 71 are patentably distinguishable from the disclosure in Hoover *et al.* To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

For the convenience of the Examiner, the text of claim 66 is reproduced below with an underlined phrase that is referenced in the following discussion.

66. A computer program product for use with a computer system, said computer program product comprising:

a computer usable medium having computer readable program code means embodied in said medium for causing the computer system to control the continuous preparation of medium from concentrated solutions, said computer readable program code means comprising:

computer readable program code means for enabling the computer system to control a flow of a diluent into a static mixing chamber, wherein said static mixing chamber provides a turbulent diluent stream in accordance with said flow;

computer readable program code means for enabling the computer system to control a flow of a plurality of chemically incompatible concentrate solutions into said static mixing chamber, wherein said plurality of concentrate solutions admix with said turbulent diluent stream in such a manner that none of the ingredients of the concentrate solutions adversely chemically react with each other to thereby form a diluted mixture of said concentrate solutions.

The subject matter encompassed by claim 66 thus comprises, *inter alia*, a "computer readable program code means for enabling the computer system to control a flow of a plurality of chemically incompatible concentrate solutions into said static mixing chamber." The Hoover *et al.* reference refers to "a multiflavor beverage dispenser including a flow-rate control valve assembly and a microprocessor control system for controlling the ratio of diluent to concentrate." *See Hoover et al.*, column 1, first paragraph. Hoover *et al.* does not teach a computer readable program code means for enabling the computer system to control a flow of a plurality of chemically incompatible concentrate solutions into a static mixing chamber. Hoover *et al.* refers to a system for a beverage dispenser and does not teach that the concentrate solutions (*e.g.*, beverage syrup) are incompatible. Therefore, Hoover *et al.* does not teach a computer readable program code means for enabling the computer system to control a flow of a plurality of chemically incompatible concentrate solutions into a static mixing chamber.

Therefore, claim 66 is distinguishable over Hoover *et al.* because this reference does not set forth each and every claim element, either expressly or inherently. In other words, Hoover *et al.* does not describe the identical invention as is contained in claim 66. Claims 67, 68 and 71 depend from claim 66, and hence incorporate all of the limitations of claim 66. Therefore for the reasons discussed above, claims 66-68 and 71 are not anticipated by Hoover *et al.* under 35 U.S.C. § 102(b).

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 66-68 and 71 under 35 U.S.C. § 102(b).

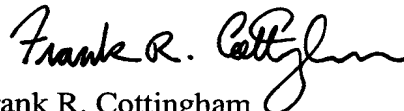
***Claim Objections***

Claims 69, 70 and 72-81 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. *See* Office Action, page 5. As noted above, Applicants believe that the rejection of claims 66-68 and 71 is in error and should be withdrawn. Accordingly, the claim objections are also in error and should be withdrawn.

***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and that, as such, the present application is in condition for immediate allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,  
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C



Frank R. Cottingham  
Attorney for Applicants  
Registration No. 50,437

Date: OCT. 31, 2005

1100 New York Avenue, NW  
Washington, D.C. 20005-3934  
(202) 371-2600

459219\_1.DOC